IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 8941 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UMEDBHAI MANILAL PATEL - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR BS PATEL for Applicant(s) :
Mr. KT Dave, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1 - 2.
MR PARTHIV B SHAH for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/09/2007
ORAL JUDGMENT

Rule. Heard Shri Chirag Patel, learned advocate appearing for the applicant original-accused; Shri Parthiv Shah, learned advocate appearing for respondent No.3 original-

complainant; and Shri KT Dave, learned APP appearing on behalf of respondents No. 1 and 2.

2. By way of this application under Section 482 of the Code of Criminal Procedure the applicant original-accused has prayed for an appropriate order to quash and set aside proceedings of FIR being No. C.R. No.I-175/2007 registered at Gorva police station, Vadodara.

3. A complaint/FIR being C.R. No. I-175/2007 is registered at Gorva police station against the applicant original-accused by respondent No.3 original-complainant for the offences punishable under Section 406 of the Indian Penal Code with respect to cheque for an amount of Rs. 50,000 for which separate proceedings are pending before the competent Court against respondent No.3 herein for the offences under Section 138 of the Negotiable Instruments Act. As it is reported that the parties have settled the dispute, this Court is not narrating the full facts in detail.

The learned advocates appearing on behalf of the respective parties have jointly submitted that the parties have settled the dispute and respondent No.3 original-complainant has agreed to pay Rs. 30,000 to the petitioner towards full and final settlement of the cheque in question and on such payment even the petitioner is to withdraw the complaint under Section 138 of the Negotiable Instruments Act which is pending before the competent court at Vadodara. It is jointly submitted that as the dispute has been settled amicably between the parties the impugned complaint may be quashed and set aside and for which the respondent No.3 original-complainant has no objection. Considering the above and even otherwise considering the averments and allegations in the complaint it prima facie does not disclose any offence under Section 406 of the IPC and the impugned complaint requires to be quashed and set aside. The learned advocates appearing on behalf of the respective parties do not press for further detailed reasoned order for

quashing and setting aside the impugned complaint/FIR.

4. For the reasons stated above, the impugned being No. C.R. No.I-175/2007 registered at Gorva police station, Vadodara is hereby quashed and set aside. Rule is made absolute accordingly.

[M.R. Shah, J.]

rmr.